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Appeal from Circuit Court, Wise County.

Suit by A. T. Peterson against J. K. Haynes and others. From decree for plaintiff, defendants appeal. Reversed. and bill dismissed.

Goleman & Carter, W. S. Cox, and S. H. Bond, all of Gate City, for appellants.

Bond & Bruce, of Wise, for appellee.

ADAMS EXPRESS CO. *v.* ALLEN.

Sept. 17, 1919.

[100 S. E. 473.]

1. **Carriers (§ 105 (2)*)—Chargeable with Notice of Intended Immediate Use of Hog Cholera Serum.**—Express company, by which the department of agriculture of Virginia made a shipment of hog cholera serum, informed that it was such serum, and of the importance of prompt dispatch, while the words "please rush" appeared on the face of the express receipt, held chargeable with notice that the serum was intended by the consignee for preventive treatment of hogs.

2. **Damages (§ 5*)—Recovered by Consignee from Carrier for Delay in Shipment General and Not Special.**—Damages recovered by the consignee of hog cholera serum from the express company which carried the shipment, and which was chargeable with knowledge of its intended use as a preventive, being for the loss of hogs through disease which might have been prevented but for delay in delivery, held "general" and not "special" damages, having been such as arose naturally from the breach of the contract itself and such as may reasonably be supposed to have been in the contemplation of both parties.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 172.]

3. **Carriers (§ 153*)—Provisions in Express Receipt Not Limitation of Liability by Declaration of Value.**—Provisions in the face and on the back of an express receipt for hog cholera serum shipped held not to have limited the liability of the express company to the sum of \$50, there having been no value declared by shipper, but merely the C. O. D. charge stated.

4. **Carriers (§ 150*)—Limitation of Liability for Negligence Is Void.**—Under Code 1904, § 1294c, subsec. 24, an attempted limitation of the liability of a common carrier is void where the injury or loss is occasioned by the negligence or misconduct of the carrier.

[Ed. Note.—For other cases, see 15 Va.-W. Va. Enc. Dig. 156.]

5. **Appeal and Error (§§ 381 (2), 757 (3)*)—Assignment Complaining of Admission of Evidence Not Pointed Out Not Considered.**—Where neither in the petition for writ of error nor in the brief is the

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

evidence pointed out which plaintiff in error charges was illegally admitted over objection, under the rule the assignment of error will not be considered.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 538.]

Error to Circuit Court, Lee County.

Action by W. P. Allen against the Adams Express Company. To review judgment for plaintiff, defendant brings error. Affirmed.

Coleman & Carter, of Gate City, for plaintiff in error.

J. C. Noel, of Pennington Gap, for defendant in error.

W. L. BECKER & CO. *v.* NORFOLK & W. RY. CO.

Sept. 17, 1919.

[100 S. E. 478.]

1. **Limitation of Actions (§ 46 (11)*)**—**Action for Freight Accrued to Railroad on Delivery of Car.**—A railroad's cause of action against the consignee of goods for the freight arose on the date when the railroad delivered the car to the consignee, for the purpose of initiating the running of the statute against the railroad's demand.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 387.]

2. **Limitation of Actions (§ 28 (1)*)**—**Cause of Action for Freight against Consignee Barred in Three Years.**—Under Code 1904, § 2920, a railroad's cause of action for the recovery of freight from the consignee, despite provisions of the bill of lading, held barred in three years from the date when the cause of action, based on an implied or express parol promise, and not on an express promise in writing in the bill of lading, accrued.

[Ed. Note.—For other cases, see 17 Va.-W. Va. Enc. Dig. 618.]

Error to Corporation Court of Roanoke.

Action by the Norfolk & Western Railway Company against W. L. Becker & Co. To review judgment for plaintiff, defendant brings error. Reversed, and judgment entered for defendant.

Jackson & Henson, of Roanoke, for plaintiff in error.

Roy B. Smith, of Roanoke, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.